

AFFIDAVIT

I, Jeremy Robson, being first duly sworn, hereby depose and state as follows:

1. This affidavit is submitted in support of a criminal complaint and arrest warrant for JOSE G. RIVERA DOB XX/XX/1976. As will be shown below, there is probable cause to believe that between June 2018 through March 2019, Rivera committed access device fraud and aggravated identity theft, in violation of 18 U.S.C. §§ 1029 and 1028A.

2. I am a Special Agent of the United States Secret Service, Department of Homeland Security. I have been so employed since December 18, 2016. I received formal training at the Federal Law Enforcement Training Center in Glynco, Georgia, and the United States Secret Service Academy in Beltsville, Maryland. Training included, among other things, the investigation of financial crimes which included the following; identity theft, access device fraud, bank fraud, forgery and counterfeit U.S. currency. During the course of my career with the U.S. Secret Service, I have investigated financial crimes involving fraud and associated financial crimes. I am currently assigned to the Boston Field Office. My current assignment includes investigating violations of Title 18 United States Code, Sections 1028, 1028A, 1029, 1037, 1341, 1343, 1344, 1349 and 1956. Based on my training and experience, I am familiar with the means by which individuals use computers and information networks to commit various crimes. These include individuals who are engaging in financial and computer crimes.

3. The statements in this Affidavit are based upon my personal participation in this investigation, review of various documents, as well as information provided to me by other law enforcement officers, my own training and expertise as a criminal investigator, as well as the training and expertise of other criminal investigators involved with this investigation. This

affidavit is intended to show merely that there is sufficient probable cause for the requested warrants and does not set forth all of my knowledge about this matter.

4. Since September 2018, members of the Smithfield, Rhode Island Police Department (SPD), as well as members of the Secret Service have been investigating activity by several individuals who have been fraudulently making purchases at area stores using unauthorized credit accounts. These fraudulent transactions have predominantly consisted of the purchase of construction tools and materials from area stores, most commonly Home Depot and Lowe's stores. The mode of operation, while in these retail locations, was consistent with each other instance; specifically, the known and unknown individuals would gather materials for purchase and bring them to a cashier or customer service desk for payment. At that point, the individuals would provide a contact number to the cashier or customer service agent and the person on the other end of the call would then give the store representative the credit card information necessary to complete the purchase. The person providing the information would provide credit card information which was unauthorized, stolen, or otherwise fraudulently obtained.

5. This investigation began on September 3, 2018, when Smithfield resident Lawrence Mancini reported to the Smithfield, Rhode Island police department (SPD) that his Chase Bank credit card account had been used without his knowledge and authorization to fraudulently purchase items valued at approximately \$2,188. The items were generally construction materials. The perpetrators of this fraud purchased the items at the Home Depot store located at 371 Putnam Pike in Smithfield on August 13, 2018.

6. Lawrence Mancini advised SPD he spoke with Home Depot Assistant Store Manager John Callazo about this purchase and learned that the purchase had been made over the telephone, and that a manual override was done in store for the use of the credit card which had

been used to complete the transaction. The person making the telephonic purchase indicated they would pick up the items in-store.

7. Mancini further advised SPD that the purchaser name was "Andrew Rodgers" with a company name of Premax Construction. Police obtained a copy of the receipt and the purchase order; the receipt had the name of Andrew Rodgers on it, with a contact number of (201) 431-6032. The receipt was dated 08/13/18 with a time of 08:09 PM. The purchase order provided an address of 185 Concord Street Carlisle, MA 01741 along with a company name of "Premax." (401) 249-0207.

8. Smithfield Police obtained from Home Depot video surveillance for the August 13, 2018 transaction. A review of the video indicated all that was visible at that time were two males wearing baseball caps retrieving the fraudulently purchased items from the pickup counter.

9. Detective Jason Corser of SPD was assigned to investigate the case. On Monday, October 29th, 2018, Det. Corser called the cell phone number (201-431-6032); it should be noted that this number was provided online by the fraudulent purchaser through their website. Det. Corser's call reached a voicemail system. A male voice indicated in the outgoing message that the caller had reached Premax Construction (i.e., the same company name provided to Home Depot via their website). Det. Corser was unable to locate any businesses under this name.

10. Det. Corser conducted law enforcement database searches on the phone number, which indicated that the phone number was affiliated with the address 185 Concord St., Carlisle, MA. The address provided returned to a business, "Clark Farm", with a listed number of (978-254-5427). Det. Corser contacted Clark Farm via the listed number and asked the individual if an Andrew Rodgers worked at the business. The employee, which appeared to be a

female's voice, stated that Rodgers did work at the business and they would have him call Det. Corser back.

11. On Tuesday, October 30th, at approximately 3:30 pm, Det. Corser spoke with Andrew Rodgers, DOB 11/26/73, who works at Clark Farm in Carlisle, MA. Rodgers advised he had been a victim of credit card fraud approximately two months ago and that his Chase Credit card had been used at numerous Home Depot stores. Rodgers informed Det. Corser that he was the victim of fraudulent purchases made at three separate stores on the following dates:

- a. 8/9/18 - Home Depot - Mansfield, MA - \$1,069.00 & \$2,793.05.
- b. 8/11/18 - Lowe's - Attleboro, MA - \$1,128.48
- c. 8/15/18 - Home Depot - S. Attleboro, MA - \$1,655.72 & \$2,542.02.

12. Det. Corser then contacted Emily Demelo of Home Depot Loss Prevention. Information provided by Demelo indicated the name "Andrew Rodgers" was associated with unknown suspect using that name in numerous fraudulent transactions in the Home Depot located in South Attleboro, MA. Demelo stated she had numerous transactions documented for the suspect. Demelo advised every transaction involved one or two suspects that would select between approximately \$1,000 to \$4,000 worth of building supplies and tools.

13. The suspects would then go to the service desk and complete a "phone sale", in which they would provide false information and then have the customer service clerk complete the order using credit card account information that would later be discovered to have been fraudulently obtained or compromised. The fraudulent credit card number was provided over the phone to the clerk. Demelo advised that she had discovered numerous transactions, with different names, addresses, and phone numbers, which were completed by the same suspects. Demelo provided all documentation regarding the fraudulent activities including receipts and

video surveillance images of the involved suspects and vehicles. Demelo advised that the South Attleboro store had a current known loss of \$17,974.88.

14. On Thursday, November 1, 2018, Det. Corser responded to Home Depot (South Attleboro, MA) and spoke with Demelo. She advised she observed numerous vehicles used in the incidents, including A U-Haul box truck, a blue and white van, a dark colored pickup truck, and a blue pickup truck. Demelo advised that in one still photo, one suspect is wearing a t-shirt with the lettering "DTE Peckham" which she discovered is a contractor out of Glocester, RI. Demelo also stated someone had used the name "Jeffrey Kirchner" to place phone orders that were delivered to 919 Oak Hill Avenue, Attleboro, MA, on 9/11/18, and 6 Mascio Drive in Johnston, RI on 9/14/18 and 9/15/18.

15. Demelo provided Det. Corser the names and addresses associated with the fraudulent purchases she was aware of :

- d. "Andrew Rodgers" (185 Concord St., Carlisle, MA), "
- e. "Jeffrey Kirchner" (16 Judges Hill Dr., Norwell, MA),
- f. "Mark Lowell" (7 Chester Ave., Berkley, MA),
- g. "James Mihos" (22 Christys Dr., Brockton, MA),
- h. "Family Lawn" (43 Celestial Dr., Narragansett, RI),
- i. "Patric Malone" (52 Maple Ave., Swansea, MA), and
- j. "Ryan Jamison" (901 Brentwood St., Austin, TX).

16. Det. Corser was able to contact Kirchner, Lowell, Family Lawn, Malone (as well as Rodgers) and Jamison, who all confirmed that their Chase credit cards had been used to make fraudulent purchases at either Home Depot, Lowes, or both.

17. Det. Corser determined through online research that DTE Peckham is a company engaged in home construction in northern Rhode Island. Det. Corser spoke with Douglas Peckham, and showed him a still image from the video showing the suspect wearing the "DTE Peckham t-shirt. Mr. Peckham did not recognize the suspect.

18. Det. Corser then obtained information from the Attleboro, MA building inspector that the property owner at 919 Oak Hill Drive, Attleboro, MA was Vincent Mann, DOB 11/10/76. Mann's building permit was suspended for a period of time due to Mann misrepresenting his residential status at the above address, while in fact residing elsewhere.

19. On November 13, 2018, Demelo observed two of the suspects in the parking lot of the Home Depot in South Attleboro. She saw two of them get into a blue pickup truck which she had previously seen during some of the other incidents at the same location. One of the men was the same person whom she previously witnessed wearing the t-shirt with the "DTE Peckham" logo on it. The registration was RI Comb. 147-767, a 2000 Dodge Dakota registered to Wilson Guerrero, DOB 2/26/50, having an address of 100 Atwells Ave, Apt #1213, Providence, RI.

20. Det. Corser contacted Wilson Guerrero, who denied owning or registering the above-described truck. Det. Corser contacted the Rhode Island Department of Motor Vehicles, learning that the Dodge Dakota had been registered to Guerrero by a Miguel Rodriguez, DOB XX/XX/1970, who had an address of 1012 Narragansett Blvd, Providence, RI. The vehicle in question was purchased from Lajara Auto Sales at 1141 Cranston Street in Cranston, RI. Det. Corser obtained Rodriguez's driver's license photo and identified him as the man in the Home Depot surveillance photo wearing the "DTE Peckham" t-shirt, who was also the same person identified by Demelo as driving the Dakota pick-up truck in the Home Depot parking lot on November 13, 2018.

21. Det. Corser went to Lajara Auto Sales and spoke with the manager, who stated that he had sold the truck to Guerrero, who was with another male subject on the day of the sale. The manager identified a photograph of Rodriguez as the other male with Guerrero.

22. JOSE G RIVERA, DOB XX/XX/1976, currently resides in Rhode Island at an unknown location and has previously been arrested for an assault in Fall River, MA.

23. Det. Corser had also spoken with Melanie Griffith, an investigator for Chase Bank who was tasked by Chase with documenting the fraudulent charges that were being investigated by SPD. In all, Griffith had found that multiple credit card accounts were involved and used to make fraudulent purchases at area Home Depot, Lowes, and Walmart stores.

24. Based on surveillance video provided by Home Depot, there are 5 incidents of credit card fraud and aggravated identity theft caught on camera at area Home Depot stores where Rivera is identified as the suspect, for a total loss exceeding \$10,000. The following transactions were located in fraud records provided by Melanie Griffith to Detective Corser.

DATE / TIME	LOCATION	LAST 4 of CREDIT CARD	LOSS AMOUNT
6/29/2018 7:28 PM	Home Depot North Kingstown, RI	Chase Card *5340	\$1,690.99
6/29/2018 9:05 PM	Home Depot Coventry, RI	Chase Card *5340	\$1,932.28
7/1/2018 12:50 PM	Home Depot Coventry, RI	Chase Card *5340	\$2,219.15
7/8/2018 2:13 PM	Home Depot Coventry, RI	Chase Card *5340	\$2,850.68
8/10/2018 10:50 AM	Home Depot S. Attleboro, MA	Chase Card *6245	\$2,275.84

25. RIVERA was identified through investigative means including social media research as an associate of Jose Brens. As will be described more fully below, your affiant has concluded that Brens is actively involved in assisting RIVERA and others in committing access device fraud.

26. Through conversations with employees of Chase Bank, investigators learned that the bank captures the telephone numbers calling into Chase to make inquiries into account status (i.e. balances and available credit). Chase reports that they determined that the same telephone number had regularly called to check on accounts that were later used to make purchases at Home Depot and Lowes. That number is (401) 648-1465. Your affiant is aware that (401) 648-1465 has been queried in different law enforcement databases. Those databases list the user of that phone (401) 648-1465 Jose BRENS.

27. Jose BRENS, DOB 3/28/81, SS# 108-66-0931, is a registered sex offender from a previous conviction in FL in 1998, (Carnal Intercourse w/ a person under 18, Sexual Battery/ Injury not Likely/ Attempted). He is currently registered in Providence, RI where he resides at 69 Niagara St #1, Providence, RI. Jose BRENS provided Providence PD detective Timothy Rudd his phone (401-648-1465) in April of 2018 and again in April 2019 as part of his registration for being a sex offender. In May of 2019, Detective Rudd of the Providence Police called (401) 648-1465 and asked Jose Brens to report to the Providence Police Station. On April 26, 2019, your affiant witnessed Jose Brens appear at the Providence Police Station and briefly meet with Detective Rudd.

28. Investigators obtained a booking photograph of RIVERA from the Fall River Police Department. I have viewed this arrest photo and have confirmed that the individual in the photograph is the individual recorded on the above described store video.

29. On 5/16/2019, SA Jeremy Robson and Jay Corser met with a Walmart Loss Prevention employee Kimberly Hamel at Walmart on Post Rd in Warwick, RI. Investigators had learned that purchases at Home Depot and Lowes utilizing fraudulently obtained Chase Bank credit card numbers had fallen off but that it appeared they were now being used to make

purchases at area Walmart stores. Chase Bank provided investigators with the dates, times and transaction amounts of the fraudulent transactions. In turn Ms. Hamel was provided with dates/times/transaction amounts, which allowed Ms. Hamel to locate and provide video surveillance of multiple fraudulent transactions. Your affiant has reviewed those surveillance images and have observed Jose RIVERA as the individual carrying out the transactions. RIVERA used fraudulent credit card number *5243 via Walmart Pay through the Walmart Application on his cell phone. According to Chase, the following transactions occurred with credit card number *5243 using Walmart Pay:

DATE / TIME	WALMART LOCATION	LAST 4 of CREDIT CARD	LOSS AMOUNT
11/21/2018 1:46 PM	Warwick RI	Chase Card *5243	\$26.81
11/23/2018 3:37 AM	Warwick RI	Chase Card *5243	\$24.19
1/17/2019 2:34 PM	Warwick RI	Chase Card *5243	\$80.22
1/18/2019 2:23 PM	Providence RI	Chase Card *5243	\$239.48
1/19/2019 1:05 PM	Warwick RI	Chase Card *5243	\$136.25
1/20/2019 11:53 AM	Cranston RI	Chase Card *5243	\$162.54
1/20/2019 12:11 PM	Cranston RI	Chase Card *5243	\$88.82
1/26/2019 5:38 PM	North Dartmouth MA	Chase Card *5243	\$2.24
1/26/2019 6:13 PM	North Dartmouth MA	Chase Card *5243	\$117.38
1/27/2019 1:15 PM	Cranston RI	Chase Card *5243	\$215.73
1/29/2019 8:35 PM	Seekonk MA	Chase Card *5243	\$147.11
1/31/2019 8:05 PM	Seekonk MA	Chase Card *5243	\$208.88
2/2/2019 3:24 PM	Warwick RI	Chase Card *5243	\$212.93
2/6/2019 9:48 PM	Seekonk MA	Chase Card *5243	\$76.88
2/7/2019 12:55 PM	Warwick RI	Chase Card *5243	\$58.59
2/10/2019 6:53 PM	Warwick RI	Chase Card *5243	\$115.72
2/11/2019 5:56 PM	Warwick RI	Chase Card *5243	\$1.00
2/11/2019 5:58 PM	Warwick RI	Chase Card *5243	\$42.31
3/14/2019 12:14 PM	Warwick RI	Chase Card *5243	\$21.27
3/14/2019 12:36 PM	Warwick RI	Chase Card *5243	\$54.41
3/14/2019 1:54 PM	Cranston, RI	Chase Card *5243	\$77.12
3/19/2019 6:02 PM	Warwick RI	Chase Card *5243	\$171.28
3/21/2019 2:17 PM	Warwick RI	Chase Card *5243	\$42.67
Total Loss: \$2,323.83			

30. Surveillance video obtained from Walmart shows that on 1/19/2019 at 1:02:04 PM Jose RIVERA (wearing white/gray "GAP", dark gray hooded sweatshirt, and dark gray sweatpants) approaches a self-check-out kiosk with an unknown male subject. Jose RIVERA can be seen initially transferring several canned food items directly from the cart to a plastic bag, without scanning/attempting to pay for the items. Eventually the kiosk provided an error message due to the weight in the bag with no items being scanned. RIVERA then removed a few cans from the bag and scanned them and proceeded to place the bag into the cart. At 1:05:07 PM, RIVERA removed from his left sweatshirt pocket, a cell phone which has a cartoon "Joker" face as the background. At 1:05:12 PM, RIVERA removed another cell phone from the same left pocket and returned the first cell phone to the left pocket. He continued to scan the remaining items. He then entered a four digit password for Walmart Pay through the Walmart phone app and scans the QR code on the register screen, paying with stolen credit card number *5243. At 1:01:52 PM and 1:05:51 PM other cameras show the unknown male subject, a black male wearing a dark gray sweatshirt with red hat as well as a white female wearing all black, walking with RIVERA in the store as well as exiting with him.

31. On 3/14/2019 at timestamp 12:36:44 PM, a male appearing to be Jose Rivera is recorded exiting the store carrying merchandise in both hands, which matches the transaction listed above on 3/14/2019 at 12:36 PM for \$54.41.

32. On surveillance video dated 3/19/2019 6:00:08 PM, Jose RIVERA wearing a white and gray sweatshirt with dark colored hat, began placing merchandise on the belt, while another male suspected to be Jose Brens wearing all black, stood near the bagging area. At 6:46 PM, Jose Brens transfers bags of merchandise back into the shopping cart. At 6:53 PM Jose RIVERA stood in front of the payment kiosk with his phone in his left hand. RIVERA continued to assist

Brens by handing him bags of merchandise. At 6:02:11 PM Brens appeared to instruct RIVERA on where to pay using the Walmart Pay function from his phone, and continued to stand next to him until the payment was completed. Afterward, both Brens and RIVERA walked away, with Brens pushing the cart full of merchandise. On surveillance video from the exit door, at 6:03:05 RIVERA is seen pushing the cart with Brens walking in front, leading them out of the store.

33. A subpoena to Walmart was issued in regards to the registered owner of the Walmart phone app used to make the purchases. The records returned the account as belonging to Kenneth Monteiro, opened 11/21/2018 at 1:23 PM (EST). The first fraudulent charge was 23 minutes later at 1:46 PM. Mr. Monteiro's Chase card was also the one compromised and fraudulently used at the Walmart stores. Mr. Monteiro advised he did not open the Walmart account and assumed it was his wife making the purchases on the credit card, which was why RIVERA was able to fraudulently use the stolen card number for so long.

CONCLUSION

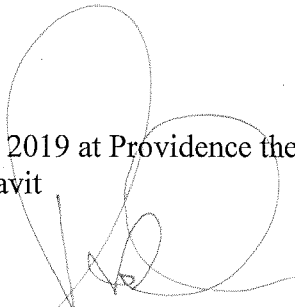
34. Based on the information provided, there is probable cause to believe that: (i) From on or about June 2018 to March 2019, defendant JOSE RIVERA, having devised and intended to devise a scheme and artifice to defraud Chase Bank, Home Depot, and Walmart, and to obtain property by means of false and fraudulent pretenses, did knowingly and with intent to defraud effect transactions, with 1 or more access devices issued to another person or persons, to receive payment or any other thing of value during any 1-year period the aggregate value of which is equal to or greater than \$1000 in violation of 18 U.S.C. § 1029 (5) (Count One – Access Device Fraud); and (ii) From March 2018 to March 2019, defendant JOSE RIVERA, during and in relation to the offense of Access Device Fraud, contrary to 18 U.S.C. § 1029, did knowingly

transfer, possess and use, without lawful authority, the means of identification of another person, to wit the name of Kenneth R Monterio, Daniel A Calitri, Michael J Georgio, in violation of 18 U.S.C. § 1028A (Count Two – Aggravated Identity Theft).



Jeremy Robson
Special Agent
United States Secret Service

On June 25, 2019 at Providence the above personally appeared before me and swore to the truth of this affidavit



PATRICIA A. SULLIVAN
UNITED STATES MAGISTRATE JUDGE